

37 Am. Jur. 2d Fraud and Deceit § 118

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Fraud and Deceit

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IV. False Representations

F. Intent to Deceive, or to Induce Reliance; Knowledge of Falsity

1. Necessity of Intent

§ 118. Question of law or fact

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Fraud](#)  4

The intent with which a false representation was made by words, or conduct such as acts performed in concealing the existence of facts is ordinarily a question of fact¹ to be decided in view of the circumstances connected with, or immediately preceding or following, the transaction involved.² The question whether there was an intent to deceive the party who complains that he or she was defrauded by a false representation is one of fact.³ For illustration, it may be observed that whether or not a misrepresentation as to the ownership of certain property was made with fraudulent intent or was due to an honest mistake is a question for the jury to determine.⁴ The jury is to determine what the person making an ambiguous representation intended the person to whom it was made to understand by it, where its truth or falsity depends on the interpretation given it.⁵

Once the existence of a fraudulent intent has been determined, it rests with the court to declare its legal effect.⁶

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Footnotes

- 1 [Trice v. Commercial Union Assur. Co.](#), 334 F.2d 673 (6th Cir. 1964); [Halsey v. Minnesota-South Carolina Land & Timber Co.](#), 174 S.C. 97, 177 S.E. 29, 100 A.L.R. 1 (1934).
- 2 [Erskine v. Chevrolet Motors Co.](#), 185 N.C. 479, 117 S.E. 706, 32 A.L.R. 196 (1923).
- 3 [Rodgers v. Boise Ass'n of Credit Men](#), 33 Idaho 513, 196 P. 213, 23 A.L.R. 195 (1921).
- 4 [Feak v. Marion Steam Shovel Co.](#), 84 F.2d 670, 107 A.L.R. 583 (C.C.A. 9th Cir. 1936); [Feldmesser v. Lemberger](#), 101 N.J.L. 184, 127 A. 815, 41 A.L.R. 1153 (N.J. Ct. Err. & App. 1925).
- 5 [Downey v. Finucane](#), 205 N.Y. 251, 98 N.E. 391 (1912).

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[Bergman v. Jones, 10 N.D. 520, 88 N.W. 284 \(1901\).](#)

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